MONTANA LEGISLATIVE HISTORY

Chapter 172 19 75

Bill H _____ S 215 Original bill & history ✓ C

H. Committee on Business & Industry			S. Committee on Business & Industry		
Hearing Date(s)	3/7	✓ C	Hearing Date(s)	2/5	✓ C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

Senate BILL NO. 215

INTRODUCED BY LYNCH Rankin Fasbender
Dendle Tom Gilley

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 47-202, 47-204, 47-205, 47-214, AND 47-215, R.C.M. 1947, BEING SECTIONS OF THE MONTANA CONSUMER LOAN ACT, PERMITTING LICENSES THEREUNDER TO MAKE LOANS NOT EXCEEDING $7,500."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 47-202, R.C.M. 1947, is amended to read as follows:

"47-202. Definitions. Unless otherwise clearly indicated by the context, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:

(a) "Person" shall mean individuals, partnerships, associations, corporations and any and all legal entities in the loaning business.

(b) "License" shall mean one or both of the licenses provided for by this act.

(c) "Licensee" shall mean the person holding any such license.

(d) "Commissioner" shall mean the consumer loan commissioner.

(e) "Consumer type loan business" shall mean the

business of making loans of ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500) or less generally repayable in substantially equal installments."

Section 2. Section 47-204, R.C.M. 1947, is amended to read as follows:

"47-204. Scope--exemptions--invalidity of contracts in violation. (a) Scope; prohibiting engaging in the business of making loans of ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500) or less, except after having obtained a license; exemptions. On or after July 1, 1959, no person shall engage in the business of making loans or advances of money on credit in amounts of ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500) or less and contract for, charge, or receive directly or indirectly on or in connection with any such loan or advance, any charges whether for interest, compensation, consideration, or expense which in the aggregate are greater than ten per cent (10%) per annum, except as provided in and authorized by this act. A person doing business under the authority of this state or the United States relating to banks, trust companies, savings or building and loan associations, credit unions, Morris Plan companies, or a person engaged in business as a licensed pawnbroker, or any person who shall extend credit in connection with the sale of a commodity shall not become a licensee under this act, nor shall any of

the provisions of this act apply to any such exempted person.

(b) Evasions. The provisions of subsection (a) shall apply to any person who seeks to evade its applications by any device, subterfuge or pretense whatsoever.

(c) Invalidity; penalty. Any contract of loan in the making or collection of which any act shall have been done which violates subsection (a) of this section shall be void and the lender shall have no right to collect, receive or retain any principal, interest, or charges whatsoever."

Section 3. Section 47-205, R.C.M. 1947, is amended to read as follows:

"47-205. When loans in excess of $1,000 by licensee prohibited--supplementary license to make loans up to ~~$2,500~~ $7,500. No licensee under the provisions of this act shall lend money in a total sum greater than one thousand dollars ($1,000) to any borrower or to any borrower and spouse except under the following circumstances and for the following charges: When any person holding a license provided for in section 47-206 desires to make loans for any amount in excess of one thousand dollars ($1,000) but not exceeding ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500) the holder of such license provided for in section 47-206 may apply to the commissioner for a supplementary license and pay therefor an additional license fee of

seventy-five dollars ($75) per calendar year or one-half (1/2) of said sum for any period less than six (6) months. The commissioner shall grant, upon application, a supplementary license to a holder of a license provided for in section 47-206. Section 47-209 shall be applicable as to time of payment of supplementary license fee and penalty for failure to pay the same. The holder of a supplementary license may contract for and receive charges at rates authorized for licensees in section 47-210 for the first one thousand dollars ($1,000) of the principal amount of any loan and may contract for and receive charges at rates not in excess of ten dollars ($10) per year per one hundred dollars ($100) on that part of the principal amount of any loan exceeding one thousand dollars ($1,000) but not exceeding ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500). Said charges shall be computed at the applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments. Said charges shall be added to the principal of the loan and shall not be discounted or deducted therefrom nor paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day shall be considered one-thirtieth (1/30) of a month. Provisions of section 47-210 relating to

refunds, fees and charges and the other provisions of this act not inconsistent with this section shall be applicable to loans made under authority of a supplementary license."

Section 4. Section 47-214, R.C.M. 1947, is amended to read as follows:

"47-214. Insurance written with loans--types and limitation thereon--delivery of insurance policy. (a) No insurance of any kind shall be written by a licensee, or employee, affiliate or associate of the licensee in connection with any loan except as hereinafter provided.

(b) Insurance permitted under the provisions of this section shall be obtained through an insurance company authorized to conduct such business in Montana by a duly licensed agent or agency of this state. Premiums shall not exceed those fixed by law or current applicable manual rates. Insurance written, as authorized by this section, may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee.

(c) Property insurance. When the principal amount of the loan exceeds three hundred dollars ($300) exclusive of the portion thereof attributable to insurance premiums and charges, the licensee may require a borrower to insure property offered as security against any substantial risk of loss, damage or destruction for an amount not to exceed the reasonable value of the property insured or the amount of

the loan, whichever is smaller, and for the customary term approximating the term of the loan contract. It shall be optional with the borrower to obtain such insurance in an amount greater than the amount of the loan or for a longer term.

(d) Credit life insurance and credit disability insurance. Subject to the laws of this state, credit life insurance and credit disability insurance may be provided at the expense of the borrower and may be provided by a licensee upon the request of the borrower when the principal amount of the loan exceeds three hundred dollars ($300) exclusive of the portion thereof attributable to insurance premiums and charges. If any loan shall include amounts advanced for insurance premiums and charges such loan shall not in any event exceed ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500).

(e) The insurance authorized by this section may be sold, obtained or provided by or through a licensee and the premium or identifiable charge for the insurance may be included in the principal amount of the loan; provided, however, that no licensee shall require a borrower to purchase such insurance from such licensee or from any particular agent, broker or insurance company as a condition precedent for the obtaining of a loan. Any gain or advantage to the licensee or any employee, affiliate or associate of

the licensee from the sale, provision or obtaining of insurance as authorized by this section shall not be deemed to be additional charges or a violation of this act.

A licensee shall not require insurance under this section until any existing insurance of the same type has expired or has been canceled and the unearned portion of the premium for the canceled insurance has been rebated to the borrower."

Section 5. Section 47-215, R.C.M. 1947, is amended to read as follows:

"47-215. Investigations, when--who may be investigated. The commissioner or his duly authorized representatives may at any time investigate any transaction with borrowers and may examine the books, accounts and records in this state to discover violations of this act by (1) any licensee (2) any person who advertises for, solicits or holds himself as willing to make loans in amounts of ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500) or less, or (3) any person whom the commissioner has reason to believe is violating or is about to violate the provisions of this act."

-End-

44th LEGISLATIVE SESSION

COMMITTEE ON Business and Industry

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 1	1/6/75	1/13/75	1/22/75			1/22/75			
SB 7	1/6/75	1/17/75	1/2/75			1/29/75			
SB 69	1/22/75	1/29/75	1/29/75			1/29/75			
SB 98	1/11/75	1/24/74	1/24/74		NO RECOMMENDATION				
SB 108	1/11/75	1/27/75	2/3/75			2/3/75			
SB 109	1/11/75	1/27/75	2/14/75		2/14/75				
SB 117	1/18/75	2/3/75	2/14/75			2/14/75			
SB 142	1/21/75	2/10/75	2/14/75		2/14/75				
SB 150	1/21/75	1/31/75	2/3/75	2/3/75					
SB 151	1/21/75	2/17/75	2/24/75	2/24/75					
SB 164	1/22/75	1/29/75	1/29/75			1/29/75			
SB 215	1/24/75	2/5/75	2/3/75	2/3/75					
SB 234	1/27/75	2/19/75	2/24/75			2/24/75			
SB 235	1/27/75	2/19/75	2/24/75			2/24/75			
SB 238	1/27/75	2/19/75	2/24/75	2/24/75					
SB 258	1/27/75	2/7/75	2/12/75		2/12/75				
SB 284	1/27/75	2/7/75	2/14/75		2/14/75				

(Use Separate Sheet for Senate, House Bills, and Resolutions)

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Febraury 5, 1975

MINUTES OF THE MEETING

BUSINESS AND INDUSTRY COMMITTEE

MONTANA STATE SENATE

The meeting of the Business and Industry Committee was called to order by Chairman Regan on the above date in Room 404 at 11:00 a.m. The meeting was held in order to discuss House Bill 70 an act entitled: "An Act Repealing Section 52-318, R.C.M. 1947, To Remove the Statute Forbidding the Sale of Mortgaged Chattels Without the Consent of the Mortgagee.", Senate Bill 215 an act entitled: "An Act to Amend Sections 47-202, 47-204, 47-205, 47-214, and 47-215, R.C.M. 1947, Being Sections of the Montana Consumer Loan Act, Permitting Licenses Thereunder to Make Loans Not Exceeding $7,500.", and Senate Bill 296 an act eititled: "An Act Declaring a Contract for the Sale of Gasoline on any Basis Other Than Gross Volume Delivered to be Void."

HOUSE BILL 70: Representative Jim Moore, chief sponsor of the bill, gave a brief description of the bill. Senator Towe asked Representative Moore if they would be reducing the offense from a felony to a misdemeanor. Representative Moore replied that one is in the 1973 statute and the other is in the 1916 statute. The court would take the 1973 statute over the 1916 statute.

SENATE BILL 215: Senator Lynch, chief sponsor of the bill stated that the bill would raise the amount of money that small loan companies could loan. It would allow people who have difficulty getting a loan elsewhere to receive one.

Jerry Loendorf, Montana Consumers Finance Company, stated that inflation has made it difficult for finance companies to serve the people. If a person needs a large amount of money and one company can not give them the whole amount then they will go to two loan companies in order to secure the amount they need. Senator Greely asked Mr. Loendorf what amount of loans they make in an excess of the $7,500 limit. Mr. Loendorf could not say but stated that he has made loans up to the limit. Senator Greely then asked if they would be changing the intent of the bill by making it unlimited. Mr. Loendorf replied that they would have to change the title if they did that.

SENATE BILL 296: In the absence of Senator Lynch, Tom Stapples presented Senate Bill 296 to the committee. Mr. Stapples gave a brief description of the difference between gasoline that is sold on a temperature control basis and gasoline that is sold on a volume basis.

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Mr. Kanely, Montana Intermountain Oil Company, stated that if they brought in 10,000 gallons of gas they would be billed for 10,539 gallons because of the temperature correction. The federal government does the same thing. They charge on gross gallons. One group charges on gallons and the other will try to charge on temperature control. He advocated that this law be changed.

Gary Delano, Division of Weights and Measures, prepared amendment attached. He further stated that in Helena the average temperature is between 43° and 44°. On 10,000 gallons of gas we would be loosing 141 gallons of gas per load.

Jack Rehberg, Montana Petroleum Association, stated that the temperature correction of 60° should be changed.

Tom Kenneally, Town Pump Gas Station, stated that he received a call from Mr. Peterson who is one of their chief suppliers and they are opposed to the bill. He further stated that as far as other companies comming in with the same type of bill it is unlikely. Propane and such things are of another entity.

Senator Greely asked if this bill would need a penalty catcher. Mr. Loendorf stated that they did include a penalty provision, $500 or 6 months in jail. Thought it would be desirable to put in the word misdemeanor. Senator Towe asked if they could get gas from a company that did not charge on a temperature control basis. Mr. Kenneally replied that Texaco does not charge on a temperature control basis.

Chairman Regan recessed the meeting at 11:55 and stated that the Committee would return after the Legislative Session for executive action. The meeting was called to order at 3:45.

The first topic of discussion was House Bill 36. Senator Rosell was not in favor of the gambling bill. She stated that as long as the point was made that it would be going to a non-profit organization there should be some language stating that effect. Senator Rosell moved that an amendment to HB 36 to insert amendment one. Attached. Senator's Towe, Greely, Foster, and Devine were opposed. Senator's Rosell, Regan, and Hazelbaker were in favor of the amendment. Motion failed.

Senator Towe then moved that HB 36 be concurred in. All were in favor.

Senator Towe moved that HB 70 be concurred in. He stated that anytime you remove property from the state you are liable. All were in favor.

Senator Towe moved that Senate Bill 215 do pass. Chairman Regan moved that they amend the title and add a new section to take care of the limit. Motion failed with the exceptions of Senator's Foster and Regan. All were in favor on the motion that Senate Bill 215 do pass.

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ADJOURN: There being no further business Chairman Regan adjourned the meeting at 4:05.

Pat Regan, Chairman

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No licensee shall enter into any contract of loan for more than two thousand five hundred dollars ($2,500) to and including five thousand dollars ($5,000), exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than sixty-one (61) calendar months from the date of making such contract.

No licensee shall enter into any contract of loan for more than five thousand dollars ($5,000) to and including seven thousand five hundred dollars ($7,500), exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than eighty-five (85) calendar months from the date of making such contract.

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SENATE COMMITTEE Business & Industry

Date 2-5-75 Senate Bill No. 215 Time 4:05

NAME	YES	NO
John W. Devine, V.C.	✓	
Mike Greely	✓	
Donald R. Foster		✓
Thomas E. Towe	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad	✓	
Antoinette Fraser Rosell	✓	
Pat Regan, Chairman		✓

Secretary Chairman

Motion: Do pass

(include enough information on motion—put with yellow copy of committee report.)

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ROLL CALL

Bus. & Ind. COMMITTEE

44th LEGISLATIVE SESSION 1975

Date 2-5-75

NAME	PRESENT	ABSENT	EXCUSED
John W. Devine, V.C.	✓		
Donald R. Foster	✓		
Mike Greely			
Thomas E. Towe			
Frank W. Hazelbaker	✓		
Allen C. Kolstad	✓		
Antoinette Fraser Rosell	✓		
Pat Regan, Chairman	✓		

Each day attach to minutes

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ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

44 LEGISLATIVE SESSION, 19 75

Date MARCH-1975

Name	5	7	10	12	14	17								
ARTHUR H. SHELDEN														
ROBERT J. HARPER														
DOROTHY BRADLEY			E											
JOE QUILICI						E								
JOHN C. VINCENT			E											
J. MELVIN WILLIAMS														
JOE TROPILA		E												
SAM WOLFE	E	E	E		E	E								
JAMES A. SLOAN	E			E		E								
PAUL T. RICHARDS														
HARRISON G. FAGG			E											
DAVID AAGESON														
W. JAY FABREGA	E													
DENNIS D. CASEY														
L. E. (GENE) WOOD	E	E	E			E								

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BUSINESS AND INDUSTRY COMMITTEE

44 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 150	PSC To Set Value On Public Utility Property	2/14/75	Towe	2/17/75	BE CONCURRED IN	2/19/75
SB 215	To Amend Montana Consumer Loan Act	2/15/75	Lynch	3/7/75	BE CONCURRED IN	3/7/75
HB 684	Eminent Domain Laws	2/15/75	Wolfe	2/24/75	AS SO AMENDED WITHOUT RECOM-MENDATION	2/25/75
HJR 62	Requesting Federal Govern-ment Policy-Makers To Con-sider Needs Of People	2/15/75	Richards	2/24/75	AS SO AMENDED DO PASS	2/24/75
SJR 18	Requesting PSC To Expand Study Natural Gas	2/20/75	McOmber	3/7/75	BE CONCURRED IN	3/7/75
SB 296	Sale Of Gasoline On Any Basis Other Than Gross Volume	2/21/75	Lynch	3/7/75	BE CONCURRED IN	3/7/75

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March 7, 1975

The meeting of the Business and Industry Committee was called to order this date, at 10:30 A.M., with Chairman Shelding presiding. All members were present, with the exception of Rep.'s Wolfe, Wood and Tropila, who were excused.

The following bills were considered:

SJR 18...Senator McComber explained the bill and the need for it. He said this study would provide the PSC with information regarding how much gas is being bought, how much is being paid for gas, how much gas is being produced and other important pertinent facts regarding natural gas, and the adequate regulation and equitable rates for consumers relative to natural gas.

Senator McComber introduced Gordon E. Bollinger, from the Public Service Commission, who also testified as a proponent to this bill. Mr. Bollinger said the PSC could not regulate what it did not know about, and that this study would provide them with the necessary information to regulate natural gas in Montana.

There were no other proponents, and there were no opponents to this bill.

SB 215...Senator Lynch, sponsor, explained the bill, and said they were only making one small change in the bill, which was the changing of twenty-five hundred dollars to seventy-five hundred dollars as the loan ceiling. He said the reason was obvious in the economy of today, when everything has gone up.

Senator Lynch introduced Jerome T. Loendorf, from the Montana Consumer Finance Co.,who testified as a proponent to this bill. Mr. Loendorf explained again about the change in the existing law, and the need for the change. He said many people were forced to go to several loan companies because of the existing ceiling of twenty-five hundred dollars maximum loan available, and said this would enable people to have one loan at one company, and would eliminate having to make many payments to various loan companies.

Harold Pitts, from the Department of Business Regulation, testified as a proponent to this bill. Mr. Pitts spoke of the number of loan companies in the State of Montana. He said there were fifty-nine companies in the state, and said the Department of Business Regulation supervised these companies, and that they all were doing a good job, and that the Department had virtually no complaints regarding the loan companies in this state.

There were no opponents to this bill, and the members of the Committee asked several questions regarding the ceiling, and why there was a limit to it. Mr. Loendorf said they felt in writing this bill, that had to put a seventy-five hundred dollar limit in it, because if they hadn't, the bill would never get passed. He said, in time, the ceiling could be changed if there was a need for it, but that for the present time, it seemed a reasonable amount.

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Rep. Williams asked of Mr. Loendorf what the present interest rate is at this time, and Mr. Loendorf said the maximum rate was 39.09% for one hundred dollars over a year's period of time. Rep. Harper asked if there would be any objection to having no ceiling on the amount loaned, and again the proponents said the bill would not be passed if this were included. Rep. Harper inquired whether there were any people from loan companies present and Mr. Nyquist responded, and gave his views on having no ceiling on the bill. Mr. Nyquist said he thought the bill would fail if that were on it.

SB 296...Senator Lynch, sponsor, explained the bill and also explained the difference of gas volume lost with varying termperatures. He said this bill would help the small dealers, and save them considerable money. Senator Lynch introduced Tom Kenneally, who manages The Town Pump in Butte. Mr. Kenneally testified as a proponent to this bill, and gave the percentages of loss with varying temperatures. He urged the passage of the bill.

Ray Havig, from Bair's Service Station, Inc.,in Billings, said it would really make a difference to the small dealers if this bill were passed. Mr. Havig also said this would ultimately benfit the consumer.

The following action was taken by the committee:

SJR 18...Rep. Quilici moved that this resolution be concurred in; This motion passed unanimously.

SB 296...Rep. Aageson moved that this bill be concurred in; This motion passed unanimously.

SB 215...Rep. Fagg moved that this bill be concurred in; This motion passed unanimously.

Chairman Shelden appointed Representative Quilici to carry SJR 18 on the floor; Rep. Aageson, to carry SB 296, and Rep. Fabrega, to carry SB 215.

There being no further business, the meeting was adjourned.

zd

Arthur H. Shelden

ARTHUR H. SHELDEN, Chairman

SENATE BILL NO. 215

INTRODUCED BY LYNCH, ROSKIE, FASBENDER, DUNKLE, TOWE, GREELY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 47-202, 47-204, 47-205, 47-214, AND 47-215, R.C.M. 1947, BEING SECTIONS OF THE MONTANA CONSUMER LOAN ACT, PERMITTING LICENSEES THEREUNDER TO MAKE LOANS NOT EXCEEDING $7,500."

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(c) "Licensee" shall mean the person holding any such license.

(d) "Commissioner" shall mean the consumer loan commissioner.

REFERENCE BILL

(e) "Consumer type loan business" shall mean the business of making loans of ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500) or less generally repayable in substantially equal installments."

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shall not become a licensee under this act, nor shall any of the provisions of this act apply to any such exempted person.

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license and pay therefor an additional license fee of seventy-five dollars ($75) per calendar year or one-half (1/2) of said sum for any period less than six (6) months. The commissioner shall grant, on application, a supplementary license to a holder of a license provided for in section 47-206. Section 47-209 shall be applicable as to time of payment of supplementary license fee and penalty for failure to pay the same. The holder of a supplementary license may contract for and receive charges at rates authorized for licensees in section 47-210 for the first one thousand dollars ($1,000) of the principal amount of any loan and may contract for and receive charges at rates not in excess of ten dollars ($10) per year per one hundred dollars ($100) on that part of the principal amount of any loan exceeding one thousand dollars ($1,000) but not exceeding ~~two~~ seven thousand five hundred dollars ~~($2,500)~~ ($7,500). Said charges shall be computed at the applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments. Said charges shall be added to the principal of the loan and shall not be discounted or deducted therefrom nor paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day shall be considered one-thirtieth (1/30)

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